IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 789 OF 2005

Shri Yeshwant Namdev Jadhav & Anr. ..Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri D.V. Kedar i/by G.V.Bhagat for Applicants.
Shri V.B.Konde-Deshmukh, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 15, 2005

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. In so far as applicant No.1 is concerned he has been named at least by four witnesses as he was seen alongwith the deceased and his brother Vijay in a Rickshaw on the fateful night of 21st October, 2004. The argument that the statements of these witnesses is after thought, cannot be the basis to grant anticipatory bail in such a serious matter. The only limited relief that can be granted to the applicant No.1 is to enable him to apply for regular bail before the appropriate court, being the public servant (police constable), upon surrendering before the

appropriate court.

3. In so far as applicant no.2 is concerned, learned APP fairly accepts that after the order was passed by this court on 27th January 2005, no further evidence has been collected by the investigating agency to indicate complicity of the applicant No.2. If it is so, there was no reason for the investigating agency to give 72 hours notice even to applicant No.2. Accordingly, so far as applicant No.2 is concerned, his Application is disposed of by directing the investigating officer to give 72 hours notice before his arrest in the event some material is collected during the investigation to indicate his complicity in the commission of the offence. Accordingly, this application is disposed of in the following terms :-

a). Application in so far as Applicant No. 1 is concerned , he shall not be arrested till 18th February 2005 to enable him to appear before the appropriate court and apply for regular bail, if so advised. The applicant No.1 shall give advance notice to the investigating officer before moving the

appropriate court on or before 18th February, 2005. Till such time, the Applicant No. 1 shall extend necessary co-operation to the investigating officer as and when called upon.

b) The application for regular bail, which will be preferred by the Applicant No.1 shall be decided on its own merits by the appropriate court in accordance with law uninfluenced by rejection of the anticipatory bail application by this court or the lower court.

c) So far as Applicant No.2 is concerned, the investigating agency shall give 72 hours advance notice to the said applicant as and when the investigating officer decides to arrest the said applicant on the basis of further material collected during the investigation so as to indicate the complicity of the said applicant.

4. Ordered accordingly.

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